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Attorneys for Plaintiff
GORDIUM INNOVATIONS LLC

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

GORDIUM INNOVATIONS LLC,

Plaintiff,

v.

MOXA AMERICAS, INC.,

Defendant.

Civil Case No. _____

**PLAINTIFF GORDIUM
INNOVATIONS LLC'S
ORIGINAL COMPLAINT FOR
PATENT INFRINGEMENT AND
DEMAND FOR JURY TRIAL**

JURY TRIAL DEMANDED

Plaintiff Gordium Innovations LLC, for its Complaint against Defendant Moxa Americas Inc., alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, et seq.

THE PARTIES

2. Plaintiff Gordium Innovations, LLC is a limited liability company organized under the laws of the State of Texas with its principal place of business at 106 Fannin Avenue, Round Rock, TX 78664-5219.

1 3. Upon information and belief, Defendant Moxa Americas, Inc. is a
2 corporation organized under the laws of the State of California, with its principal
3 place of business at 601 Valencia Avenue, Suite 100, Brea, CA 92823, and a
4 registered agent for service of process at Silva Ho, 601 Valencia Avenue, Suite 100,
5 Brea, CA 92823.

6 **JURISDICTION AND VENUE**

7 4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and
8 1338.

9 5. Defendant is subject to the jurisdiction of this Court by reason of its
10 acts of patent infringement which have been committed in this Judicial District, and
11 by virtue of its regularly conducted business and systematic business contacts in
12 this state, including maintaining its principal place of business in this District and
13 its organization under the laws of the State of California.

14 6. Defendant has established sufficient minimum contacts with this
15 Judicial District such that it should reasonably and fairly anticipate being haled into
16 court in this Judicial District.

17 7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and
18 1400(b).

19 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,697,385**

20 8. The allegations set forth in the foregoing paragraphs 1 through 7 are
21 incorporated into this First Claim for Relief.

22 9. On February 24, 2004, U.S. Patent No. 6,697,385, entitled “Circuit(s),
23 Method(s) and Architecture for Configurable Packet Re-timing in Network
24 Repeater Hubs,” was duly and legally issued by the United States Patent and
25 Trademark Office. A true and correct copy of the ’385 Patent is attached as Exhibit
26 A to this Complaint.

27 10. Gordium is the assignee and owner of the right, title and interest in and
28 to the ’385 Patent, including the right to assert all causes of action arising under the

1 '385 Patent and the right to any remedies for its infringement.

2 11. In violation of 35 U.S.C. § 271, Defendant has directly infringed and
3 continues to directly infringe, literally and/or under the doctrine of equivalents, the
4 '385 Patent by making, using, selling and/or offering for sale in the United States,
5 including in this Judicial District, networking devices providing data prioritization
6 features as claimed in one or more claims of the '385 Patent ("the Accused
7 Products and Services"), without the authority of Gordium. For example, the
8 Accused Products and Services receive delay control signals in the form of priority
9 bits, or 3-bit fields within Ethernet frame headers, in inbound packets. While a
10 packet is not being transmitted, these products use the priority bits to configure
11 delays for sending received packets, utilizing priority queues and a transmission
12 selection algorithm (e.g., strict priority queuing).

13 12. The Accused Products and Services include, but are not limited to, the
14 EDS-405A/408A, EDS-405A/408A-EIP, EDS-405A/408A-PN, EDS-405A-PTP,
15 EDS-408A-3S-SC-48, EDS-505A/508A/516A, EDS-510A, EDS-510E, EDS-518A,
16 EDS-608/611/616/619, EDS-728/828, EDS-G508E/G512E/G516E, EDS-G509,
17 EDS-G512E-8PoE-4GSFP, EDS-P506A-4PoE, EDS-P510, EDS-P510A-8PoE,
18 ICS-G7526/G7528, ICS-G7526A/G7528A/G7826A/G7828A, ICS-
19 G7748/G7750/G7752, ICS-G7748A/G7750A/G7752A/G7848A/G7850A/G7852A,
20 ICS-G7826/G7828, ICS-G7848/G7850/G7852, IKS-G6524, IKS-
21 G6524A/G6824A, IKS-G6824, IKS-6726/6728, IKS-6726A/6728A, IKS-6728-
22 8PoE, IKS-6728A-8PoE, PT-508, PT-510, PT-7528, PT-7710, PT-7728, PT-7728-
23 PTP, PT-7828, PT-G7509, TN-5508/5516, TN-5508-4PoE/5516-8PoE, TN-
24 5508A/5516A, TN-5508A/5516A PoE, TN-5510/5518, TN-5510-2GLSX-ODC,
25 TN-5510A/5518A, TN-5510A/5518A PoE, TN-5524-8PoE, TN-5816/5818, NPort
26 S8000, NPort S8458, VPort 704-T, IEX-402 and EOM-104 Ethernet switches,
27 switch modules, and extenders.

28 13. Gordium provided actual notice to Defendant of its infringement of the

1 '385 Patent in a letter sent by certified mail on December 5, 2014. The letter
2 informed Defendant that the Accused Products and Services appeared to directly
3 infringe the '385 Patent, and identified the relevant features of the Accused
4 Products and Services. The December 5th letter also informed Defendant that
5 Defendant's actions, including advertising, marketing, and providing instruction
6 manuals and materials, induced others to infringe the '385 patent and cited at least
7 one specific example. A copy of the December 5th letter is attached hereto as
8 Exhibit B to this Complaint.

9 14. Defendant has had actual knowledge of the '385 Patent since at least
10 the date it received Gordium's December 5th letter.

11 15. Upon information and belief, Defendant engaged in the actions
12 described in paragraph 11 of this Complaint with specific intent to cause
13 infringement or with willful blindness to the resulting infringement because
14 Defendant has had actual knowledge of the '385 Patent and that its acts were
15 infringing the '385 Patent since at least the date it received the notice letter from
16 Gordium notifying Defendant that its products and services infringed the '385
17 Patent.

18 16. Upon information and belief, Defendant has induced and continues to
19 induce others to infringe one or more claims of the '385 Patent under § 271(b) by,
20 among other things, with specific intent, actively and knowingly, since at least as of
21 the date it received Gordium's December 5th letter, aiding and abetting others to
22 infringe, including, but not limited to, Defendant's customers and other users,
23 whose use of the Accused Products and Services constitutes direct infringement of
24 one or more claims of the '385 Patent. In particular, Defendant acted and continues
25 to act with specific intent to make others, such as its customers, infringe by
26 advertising and selling products and providing instruction manuals showing
27 infringing uses of the products and services. For example, in a newsletter post
28 titled "Moxa Launghes PT-G7509 Full Gigabit Industrial Rackmount Ethernet

1 Switch,” Moxa advertises “QoS-IEEE 802.1p/1Q and TOS/DiffServ to increase
2 determinism” as one of the key features of the PT-G7509 switch. Moxa’s
3 datasheets and user manuals for the Accused Products and Services also inform
4 Moxa’s customers and end-users of the products’ infringing features by describing
5 the products’ capability for delaying traffic using Class of Service priority queues.
6 On information and belief, since the time it received Gordium’s December 5th letter
7 informing it that it was inducing its customers and users to infringe the ’385 Patent,
8 Defendant engaged in, and continues to engage in, such actions with specific intent
9 to cause infringement or with willful blindness to the resulting infringement.

10 17. Because of Defendant’s infringing activities, Gordium has suffered
11 damages and will continue to suffer damages in the future.

12 **JURY DEMAND**

13 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Gordium
14 demands a trial by jury on all issues triable as such.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Gordium respectfully requests that this Court enter judgment
17 for Gordium and against Defendant as follows:

- 18 A. an adjudication that Defendant has infringed the ’385 Patent;
19 B. an award of damages to be paid by Defendant adequate to compensate
20 Gordium for Defendant’s past infringement of the ’385 Patent and any continuing
21 or future infringement through the date such judgment is entered, including interest,
22 costs, expenses and an accounting of all infringing acts including, but not limited
23 to, those acts not presented at trial;
24 C. an order that Defendant pay an ongoing royalty in an amount to be
25 determined for any continued infringement after the date judgment is entered;
26 D. a declaration that this case is exceptional under 35 U.S.C. § 285, and
27 an award of Plaintiff’s reasonable attorneys’ fees;
28 E. an award to Gordium of such further relief at law or in equity as the

1 Court deems just and proper.

2
3 Dated: January 8, 2015

Respectfully,

4 /s/ Jonathan Baker

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